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Italy Intends to Invoke Safeguard Clause

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Approved By:

James Dever

Prepared By:

Stefano Baldi

Report Highlights:

Italy appears likely to invoke the safeguard clause to prevent the cultivation of EU-authorized biotech crops. For the past decade, Italy has maintained a *defacto* ban on the cultivation of biotech crops by failing to develop necessary regulations. Observers speculate that Italy will provide the Commission some type of evidence to support its request not to cultivate EU-approved biotech crops and that the Commission will not reject the request even though EFSA has determined that crops are safe.

General Information:

Following the recent court ruling nullifying Minister Zaia's decree prohibiting biotech (Mon810) cultivation in the Region Friuli Venezia Giulia, Italy appears likely to invoke the safeguard clause to prevent the cultivation of EU-authorized biotech crops. Recently appointed Minister of Agriculture Romano stated, "I think now we have reached the point where, after the decision of the TAR of Lazio, which further complicates the picture in which we moved so far in the field of GMOs, to avail myself of the right to request the application of the safeguard clause. To this end, I have instructed my office to take all necessary steps within the Community for the safeguard clause that would prevent the cultivation of GMOs in the country. "

For the past decade, Italy has maintained a *defacto* ban on the cultivation of biotech crops by failing to develop necessary regulations. The timeline of court cases follows:

- 2005 – Parliament passed national Coexistence law.
- 2006 – The Constitutional Court declared the national Coexistence law unconstitutional because agricultural regulations are the responsibility of the Regions.
- 2007 – State-Regions Conference adopts suggested coexistence guidelines. To date, no Region has adopted coexistence legislation.
- 2007 – Ministry of Agriculture issues a decree allowing for biotech field trials. To date, the Minister of Agriculture has not signed the decree.
- 2008/09 – Various appeals to the Regional Court (TAR) and to the "Consiglio di Stato" (Council of State) on coexistence, trials, and importation and registration of biotech seeds. The courts either rejected the appeals or re-affirmed the Regions authority to issue coexistence legislation.
- January 2010 – The Council of State ordered the Ministry of Agriculture to issue procedures for biotech crop cultivation within 90 days.
- March 2010 – The Biotech Seed Commission advised the Ministry of Agriculture to ignore Italy's EU obligations and to reject petitions to register biotech seeds in the National Catalogue.
- March 2010 – Minister of Agriculture Zaia issued a decree rejected a farmer's petition to plant biotech (Mon810) corn.
- June 2011 – The Regional Court of Lazio annulled Minister Zaia's March 2010 decree for violating national law. The Court added that all biotech cultivation regulations pending in the Ministry may not be stopped or suspended for political reasons.

Observers speculate that Italy will provide the Commission some type of evidence to support its request not to cultivate EU-approved biotech crops (i.e., Mon810) and that the Commission will accept the request even though EFSA has determined that Mon810 is safe. Italy had the opportunity to join other Member States in invoking the safeguard clause on Mon810 for environmental reasons 2 years ago (about the same time Italy hosted the G-8 Agricultural Ministerial). Italy opted not to invoke the safeguard clause at that time.

Currently, six other Member States have requested safeguard clauses for Mon810: Austria, France, Greece, Hungary, Germany, and Luxembourg. Despite EFSA's approval of Mon810, the Council has not taken a decision on these requests. According to Directive 2001/18/EC, a safeguard clause is a provisional measure. Hence, even if Italy is successful, it cannot be considered a permanent ban on biotech cultivation.

Even if Italy is successful, its position on agricultural biotechnology is far from unified. Confagricoltura, Italy's second largest farmers' union, and many leading scientists and politicians continue to support biotechnology.

Italy is a major user of biotech crops, especially imported soybeans and would benefit from cultivating biotech crops, especially corn. Probably the two main impediments to adopting modern agricultural biotechnology in Italy are political expediency and the lack of a rationale debate. As a result, agricultural productivity and research languish in Italy, which already is heavily import-dependent. For example, Italy is one of the world's largest wheat importers and imports nearly all of its animal feed protein requirements, nearly two-thirds of its pork (ham) requirement, much of its olive oil, and more than half of its milk. Without innovation in agriculture, Italy will be ill prepared for future economic challenges.